
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

SIMMON LEE WILCOX,

Defendant.

MEMORANDUM DECISION AND
ORDER DISMISSING FOR LACK OF
JURISDICTION DEFENDANT'S PRO SE
MOTION FOR OFFENSE LEVEL
REDUCTION

Case No. 2:13-CR-717 TS

District Judge Ted Stewart

This matter is before the Court on Defendant's pro se Motion for Offense Level Reduction Based on Amended Commentary to § 3E1.1. Defendant seeks a modification pursuant to 18 U.S.C. § 3582(c)(2), which permits a sentence modification "in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission" when "such a reduction is consistent with applicable policy statements issued by the Sentencing Commission."

"To be eligible for a sentence reduction under § 3582(c)(2), the applicable Guidelines range must have been lowered by an amendment to the Guidelines listed in § 1B1.10(d) of the Guidelines Manual."¹ Defendant's Motion appears to rely on Sentencing Guidelines Amendment 810, which recently clarified the commentary to Sentencing Guideline § 3E1.1. Amendment 810 is not listed in § 1B1.10(d) and, therefore, Defendant is not entitled to relief under § 3582(c)(2).²

¹ *United States v. Washington*, 655 F. App'x 714, 716 (10th Cir. 2016).

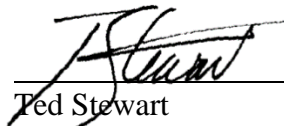
² *United States v. Avila*, 997 F.2d 767, 768 (10th Cir. 1993).

It is therefore

ORDERED that Defendant's pro se Motion for Offense Level Reduction Based on Amended Commentary to § 3E1 (Docket No. 427) is DISMISSED FOR LACK OF JURISDICTION.

DATED this 29th day of November, 2018.

BY THE COURT:



Ted Stewart
United States District Judge